

### **REMARKS**

The Advisory Action addresses claims 70, 71, and 73-85. Claims 86-90 are allowed, claims 71, 74, and 80 are objected to, and claims 70, 73, 75-79, and 81-85 stand rejected. Reconsideration and allowance is respectfully requested based on the amendments and remarks submitted herewith.

At the outset, Applicant thanks Examiner Mendoza for extending the courtesy of a telephone interview to Applicant's representatives, Michelle Bielunis and William Geary, on November 14, 2006. In the interview, agreement was reached that the amendment made to claim 70 distinguishes over the Chow reference. The Examiner also indicated that Applicant's arguments were persuasive to distinguish over the Giannuzzi reference.

#### ***Amendments to the Claims***

Applicant amends claim 70 to clarify the claim language such that the body of the suture anchor is radially expandable. Support for this recitation can be found throughout the specification, at least at paragraphs [0014], [0063], and FIG. 2A of the published application. Applicant also amends claim 78 to correspond to claim 70. No new matter is added.

#### ***Claim Rejections Pursuant to 35 U.S.C. § 102***

##### **U.S. Patent No. 5,176,682 of Chow**

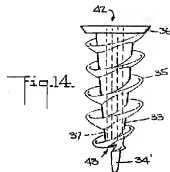
In the final Office Action, the Examiner rejected claims 70, 73, 75, 78, and 81 pursuant to 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,176,682 of Chow. During the interview, Applicant's representatives argued that Chow does not teach or even suggest a suture anchor having a radially expandable body. Rather, Chow teaches a suture anchor that includes a cylindrical body having opposed fins 16a, 16b that extend into a bore 14. In use, the fins are forced outwardly to engage and anchor the device to bone, while the diameter of the body of the suture anchor remains the same. Thus, Chow does not teach a suture anchor having a radially expandable body, as recited by claim 70. Rather, Chow teaches an anchor having radially expandable fins.

In the interview, the Examiner indicated that he agreed that amended claim 70 distinguishes over Chow. Accordingly, this rejection should be withdrawn, and claim 70, as well as claims 73, 75, 78, and 81 which depend therefrom, should be allowed.

U.S. Patent No. 4,892,429 of Giannuzzi

In the final Office Action, the Examiner also rejected claims 70, 73, 75, 76, 78, 79, and 81 pursuant to 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,892,429 of Giannuzzi. In particular, the Examiner argued that “the fastener of Giannuzzi teaches a groove/notch 43 shown in fig. 14.” Applicant disagrees.

As explained in the interview, claim 70 recites a suture anchor system that includes a radially expandable suture anchor with a tapered suture engaging tip at a distal end. A suture thread-engaging groove is formed in the suture engaging tip. Giannuzzi does not teach or even suggest a suture anchor system having a suture thread-engaging groove formed in the suture engaging tip, as recited by claim 70. As shown in FIG. 14 of Giannuzzi, which is reproduced herein, there is not any type of groove formed within the tip 34' of the screw. Rather, a notch is formed in a portion of the shank of Giannuzzi's screw. This notch is not formed in the tip – it is actually formed proximal to the tip 34' and even proximal to one of the threads. Accordingly, claim 70, as well as claims 73, 75, 76, 78, 79, and 81 which depend therefrom, distinguish over Giannuzzi and represent allowable subject matter.

***Rejections Pursuant to 35 U.S.C. § 103***U.S. Patent No. 4,892,429 of Giannuzzi

The Examiner rejected claim 77 pursuant to 35 U.S.C. § 103(a) as being obvious over Giannuzzi in the final Office Action. As noted above, independent claim 70 distinguishes over Giannuzzi because Giannuzzi does not teach or even suggest a suture anchor system that includes a suture thread-engaging groove formed in the suture engaging tip of a suture anchor. At least because it is dependent from an allowable base claim, claim 77 distinguishes over Giannuzzi and represents allowable subject matter.

U.S. Patent No. 5,176,682 of Chow

The Examiner also rejected claims 82-85 pursuant to 35 U.S.C. § 103(a) as being obvious over Chow as evidenced by U.S. Patent Nos. 5,814,071, 5,964,783, 6,527,794, 6,660,023, and 6,726,707 in the final Office Action. As noted above, independent claim 70 distinguishes over


Chow because Chow does not teach or even suggest a suture anchor having a radially expandable body. U.S. Patent Nos. 5,814,071, 5,964,783, 6,527,794, 6,660,023, and 6,726,707 do not remedy the deficiencies of Chow. Accordingly, at least because they are dependent from an allowable base claim, claims 82-85 distinguish over Chow and represent allowable subject matter.

***Conclusion***

Applicant submits that all claims are now in condition for allowance, and allowance thereof is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicant if such communication is deemed to expedite prosecution of this application.

Dated: December 14, 2006

Respectfully submitted,

By   
Michelle Z. Bielunis  
Registration No.: 57,477  
NUTTER MCLENNEN & FISH LLP  
World Trade Center West  
155 Seaport Boulevard  
Boston, Massachusetts 02210-2604  
(617) 439-2000  
(617) 310-9000 (Fax)  
Attorney for Applicant

1587864.1